

REMARKS

Claims 1, 4, 6, 9, 10, and 14-41 are all the claims presently pending in the application. Claims 1, 4, 9, 11, 14, 15, 19, 32, 36 and 39-41 have been amended to more particularly define the invention. Claims 2, 3, 5, 7, 8, 12, and 13 have been canceled. Claims 14, 23-36, and 41 have been withdrawn as being unelected.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1, 3, 7, 9, 12, 15-17, 19-21, and 37-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over KAWATA (U.S. Patent No. 6,542,627) in view of BLEY (U.S. Patent No. 6,038,012). Claims 4, 8, 13, 18, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over KAWATA in view of BLEY further in view of CONNER (U.S. Patent No. 5,579,393). Claims 6 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over KAWATA in view of BLEY further in view of SAITO (U.S. Patent No. 5,724,155). Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over KAWATA in view of BLEY further in view of FUKUOKA (U.S. Patent No. 5,960,155).

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

The claimed invention, as exemplified by claim 1, is directed to an image recording method, including loading identification information of a value or a binary information

preliminary added to a subject and subject information used by a photographer to confirm an identity of the subject, in a digital camera before photographing the subject, displaying, on a basis of the subject information, subject information used by the photographer to confirm the identity of the subject on a display device of the digital camera before photographing the subject, photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device, and recording the photographed image of the subject in connection with the loaded identification information. The image recorded in connection with the loaded identification information is saved to a database. Also, the identification information loading includes reading the subject identification information from a recording medium having the subject identification information recorded thereon, reading the subject information corresponding to the read subject identification information from the recording medium, from a database having the subject information already stored in connection with the subject identification information, and transmitting the subject information read from the database, to the digital camera together with the identification information read from the recording medium. Further, the subject information includes at least one of the subject's photograph and name.

With conventional image recording methods, an image photographed using a digital camera is associated with a patient ID in the following manner:

1) The patient ID (number) and the diagnosis image are photographed in connection with each other. Then, the photographed image is associated with the patient ID.

2) The patient ID is input from a keyboard connected to the digital camera, and a folder identical to that for the patient ID is created so that a photographed image is recorded in this folder.

The method 1) is cumbersome because it requires extra operations of photographing the patient ID and associating the photographed image with the patient ID.

On the other hand, in the method 2), an operator manually inputs the patient ID, so that an input error is likely to occur, causing the patient to be mistaken for another patient. Further, if an input error occurs, it cannot be easily detected. Furthermore, since the keyboard is connected to the digital camera, it may obstruct the movement of the camera or a change in camera angle during photographing.

Further, the recorded image is managed on the basis of a directory name or the like, so that if only the image file is copied to another directory or the like, it cannot subsequently be associated with the patient ID.

Furthermore, recent digital cameras allow recorded image information such as image format, the number of pixels, and compression rate to be properly set, so that the image may be mistakenly recorded in a form unsuitable for the database. (See Application at page 1, line 13-page 2, line 5).

Also, even if a patient ID is displayed on the display of the camera as additional information, it cannot be checked on the basis of the contents of the display whether or not this patient ID matches the patient ID imparted to the patient to be photographed. This results in the need for an extra operation of simultaneously photographing the patient and the patient ID (number) or the like and associating the photographed image with the patient ID. This is cumbersome.

Further, with a large amount of additional information, the restricted display of the camera (for example, a character liquid crystal) does not allow the entire information to be displayed, thereby also preventing the photographer from checking what additional

information is added to the image. (See Application at page 2, line 32-page 3, line 5).

The claimed invention, on the other hand, may provide an image recording method and apparatus which may simplify the input of identification information on a subject, which enables an easy check on the correspondence between the subject identification information input before photographing and the subject to be photographed, and which may automatically record information in a format suitable for a database.

The claimed invention may also provide an image transmitting method which may simplify the input of information on the destination of an image and which may automatically transmit a photographed image to a destination corresponding to the destination information.

The claimed invention may further provide an image recording method and system wherein if additional information input from an external device is recorded in connection with an image of the subject, a camera may be used to easily check what added-to-image information is added, whether or not the added-to-image information is correct as information added to the image of the subject, and the like. (See Application at page 3, lines 10-25).

II. THE PRIOR ART REFERENCE

A. The Rejections Based on the Kawata and the Bley References

The Examiner alleges that Kawata, when combined with Bley, renders claims 1, 3, 7, 9, 12, 15-17, and 19-21 obvious. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Claim 1 teaches:

"displaying, on a basis of the subject information, subject information

used by the photographer to confirm the identity of the subject on a display device of the digital camera before photographing the subject;

photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device;”

In contrast, Kawata recites a medical image output system, where the patient's medical image data, patient's face image data and patient's ID number corresponds to each other and are stored in a database, and when the patient's ID number is input from the terminal, the medical image data corresponding to the ID number and face image corresponding thereof is inputted into the terminal, medical image indicated by the medical image data and face image indicated by face image data are displayed next to each other on monitor 4.

The face image enables to confirm which of the simultaneously displayed medical images belongs to which patient.

As distinguished from Kawata, the claimed invention is, for example, a method and an apparatus for recording (correctly without mistakes) by making the medical image data such as patient's photographed endoscopic image correspond to patient's ID number. This is totally different from Kawata's invention where the medical image data and patient's ID preliminary correspond to each other and are recorded in a database.

The claimed invention has the following characteristics.

(1) If identification information on a subject (patient ID) is to be added to the subject's non-facial image (medical image data such as image of a diseased area or endoscopic image), it is troublesome to manually input the patient ID and which might lead to inputting errors.

Manual input of the patient ID can be omitted by reading the recording media recorded with patient ID (e.g. patient card issued by the hospital) when photographing a

patient (a subject).

(2) The above read patient ID can be added to the patient's photographed image, however, if the patient and the patient card did not match (if the patient had the wrong patient card), there would be a problem of adding the wrong patient ID to the photographed image.

Thus, based on the above read patient ID, the subject information corresponding to the patient ID is read out from the database. It is assumed that the patient ID managed in the database and subject information corresponding to the patient ID are correct.

By displaying the subject information read from the database as above on the display device of the camera, the subject can be confirmed.

By photographing after confirming the subject, the preliminary read patient ID is automatically added to the photographed image. This enables to add the patient ID easily and without any mistakes to the image photographing the subject.

Although the Examiner asserts that applying **Bley's** technology into Kawata's invention to achieve the present invention is obvious to a person skilled in the art, this combination of inventions seems impossible and moreover, none of the references teach or suggest a technology of recording the subject's photographed image and the subject ID preliminary given to the subject by making them correspond to each other (technology of recording easily and without any mistakes) as the present invention.

That is, the Examiner alleges that Kawata teaches the above-claimed features as recited in claim 1. (Office Action, page 3, paragraph 5, line 9 to page 4 lines 1-5). However, Kawata does not teach or suggest, *“displaying, on a basis of the subject information, subject information used by the photographer to confirm the identity of the subject on a display device of the digital camera before photographing the subject;”* and *“photographing the*

subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device."

That is, Kawata merely teaches that a retrieved medical image signal S1 corresponding to an ID number is fed from the data base unit 1 into terminal device 3, and a face image signal S2 corresponding to the retrieved medical image signal S1 is also read from the data base unit 1 and fed into the terminal device 3. The received medical image signal S1 and the received face image signal S2 (both from the database unit 1) are combined with each other, and the medical image G1 and the face image G2 are reproduced and displayed on the monitor 4. (Column 5, line 67 to column 6, lines 1-10). Kawata also specifically teaches that medical image G1 is represented by the medical image signal S1 (already stored in the data base unit 1) and that medical image G2 is represented by the medical image signal S2 (also already stored in data base unit 2). (Column 5, lines 50-55). In other words, Kawata only displays medical images G1 and face image G2 after were already captured and stored in data base unit 1, rather than before any photographing.

Also, Kawata does not teach or suggest that these medical images G1, G2 are used to confirm the identity of the subject on a display device of the digital camera before photographing the subject. Instead, after displaying medical image G1 and face image G2 are reproduced and displayed on monitor 4, identified as step S5, Kawata teaches that the processing is finished. (Column 6, line 10; figure 3).

Further, Kawata teaches that a request means 7 operates such that, in cases where a certain face image signal S2, or the like, has not been updated for a predetermined period after the certain face image signal, or the like, was stored in the data base unit, the request means 7 makes a request for storing a new image signal S2, or the like, in the data base unit 1.

(Column 8, line 1-8). Specifically, for such purposes, an instruction for requesting the storing of the new face image signal S2, or the like, may be displayed on the monitor 4.

(Column 8, line 18-20). However, Kawata does not teach or suggest, “*photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device*”

The Examiner erred by mischaracterizing making a mere request for storing the new face image signal S2 when a face image signal S2 has not been updated and displaying that request on a displaying device as actually photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device the subject without satisfying his burden to prove that Kawata teaches any actual photographing or confirming the identity of the subject on the basis of the subject information displayed on the display device.

Bley also does not remedy Kawata’s deficiencies.

The Examiner does not even allege that Bley teaches or suggests “*displaying, on a basis of the subject information, subject information used by the photographer to confirm the identity of the subject on a display device of the digital camera before photographing the subject;*” or “*photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device.*”

Instead, the Examiner merely alleges that Bley teaches a display step of displaying on a display device of the digital camera and a step of reading the subject identification information from a recording medium.

Even if Bley did teach or suggest the above features as recited by claim 1, In re Kahn states that, “Rejection based on obviousness grounds cannot be sustained by mere conclusory

statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F. 3d 977, 98. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1395-97 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper “functional approach” to the determination of obviousness as laid down in *Graham*. The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.

Exemplary rationales that may support a conclusion of obviousness include:

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “Obvious to try” – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. (See MPEP 2143).

Applicant would also point out that MPEP 2143.01 provides that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Here, the Examiner merely made a conclusory rationale that it would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Kawata with Bley in order to obtain a compact and self-contained system. (Office Action, page 5, lines 5-7). However, Kawata fails to teach or suggest that there is a desire to make its device compact or self-contained. Bley also fails to teach that its device may be adapted to a medical image output system for outputting a medical image signal.

Also, the Examiner erred by alleging that Kawata and Bley are in the same field of endeavor. (Office Action, page 4, lines 21 and 22). However, Kawata's invention relates to a medical image output system for outputting a medical image signal representing a medical image of a patient, (Column 1, lines 10-12) which is in a different field of invention from Bley's invention, which is directed to a system for producing photo identification cards, (Column 1, lines 5-10) without any reference to outputting medical image signals. However, Kawata fails to teach or suggest that its medical image signals are outputted to produce an ID card.

Claims 15 and 19 recite similar features as those recited by claim 1.

Applicants also points out that the Examiner has not identified where either Kawata or Bley teaches or suggests each and every structure as recited by claims 15 and 19.

Since there are elements of the claimed invention that are not taught or suggest by Kawata or Bley, the Examiner is respectfully requested to reconsider and withdraw this rejection.

**B. The Rejections Based on the Kawata, the Bley, and the Conner
References**

The Examiner alleges that Kawata, when combined with Bley and Conner, renders

claims 4, 8, 13, 18, and 22 obvious. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As discussed previously, neither Kawata nor Bley teach or suggest, “*displaying, on a basis of the subject information, subject information used by the photographer to confirm the identity of the subject on a display device of the digital camera before photographing the subject;*” or “*photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device,*” as recited by claims 1, or all of the structures as recited by claims 15 and 19, from which claims 4, 8, 13, 18, and 22 depend. Conner also fails to remedy Kawata’s and Bley’s deficiencies.

The Examiner does not even allege that Conner teaches the above-recited features of claim 1, or all of the structures recited by claims 15 and 19. Rather, the Examiner merely alleges that Conner teaches a recording step records the identification information loaded in the information loading step in a header part of an image file in which the photographed subject is recorded. (Office Action, page 7, lines 5-7).

Since there are elements of the claimed invention that are not taught or suggest by Kawata, Bley, or Conner, the Examiner is respectfully requested to reconsider and withdraw this rejection.

C. The Rejections Based on the Kawata, the Bley, and the Saito References

The Examiner alleges that Kawata, when combined with Bley and Saito, renders claims 6 and 10 obvious. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As discussed previously, neither Kawata nor Bley teach or suggest, “*displaying, on a basis of the subject information, subject information used by the photographer to confirm the identity of the subject on a display device of the digital camera before photographing the subject;*” or “*photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device,*” as recited by claims 1, from which claims 6 and 10 depend. Saito also fails to remedy Kawata’s and Bley’s deficiencies.

The Examiner does not even allege that Saito teaches the above-recited features of claim 1. Rather, the Examiner merely alleges that Saito teaches wherein while the subject identification information and the subject information are being transmitted to the digital camera, the digital camera is inhibited from being used for photographing. (Office Action, page 8, lines 3-6).

Since there are elements of the claimed invention that are not taught or suggest by Kawata, Bley, or Saito, the Examiner is respectfully requested to reconsider and withdraw this rejection.

D. The Rejections Based on the Kawata the Bley, and the Fukuoka

References

The Examiner alleges that Kawata, when combined with Bley and Fukuoka, renders claim 11 obvious. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As discussed previously, neither Kawata nor Bley teach or suggest, “*displaying, on a basis of the subject information, subject information used by the photographer to confirm the*

identity of the subject on a display device of the digital camera before photographing the subject;” or “*photographing the subject using the digital camera after confirming the identity of the subject on the basis of the subject information displayed on the display device.*” as recited by claims 1, from which claim 11 depends. Fukuoka also fails to remedy Kawata’s and Bley’s deficiencies.

The Examiner does not even allege that Fukuoka teaches the above-recited features of claim 1, from which claim 11 depends. Rather, the Examiner merely alleges that Fukuoka teaches wherein the information loading step loads recorded image information containing at least one of the recited image formats. (Office Action, page 9, lines 3-7).

Since there are elements of the claimed invention that are not taught or suggest by Kawata, Bley, or Fukuoka, the Examiner is respectfully requested to reconsider and withdraw this rejection.

III. FORMAL MATTERS AND CONCLUSION

In response to Examiner’s objections, claims 7, 8,12, and 13 have been canceled.

In view of the foregoing, Applicant submits that claims 1, 4, 6, 9, 10, and 14-41, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.


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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

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